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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 August 2000, at 10 a.m.

Chairperson: Ms. MOTOC

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GE.00-14560 (E)

The meeting was called to order at 10.10 a.m.

ORGANIZATION OF WORK (agenda item 1) (continued)

1. The CHAIRPERSON said that the Bureau had held a meeting on the previous day and had proposed that two sessional working groups - the working group on the working methods and activities of transnational corporations and the working group on the administration of justice - should meet during the current session. She took it that the Sub-Commission wished to endorse that proposal.

2. It was so decided.

3. The CHAIRPERSON invited the regional groups to hold consultations to nominate experts for membership of those two working groups.

4. She then drew attention to the draft timetable prepared by the Bureau for the work of the session (E/CN.4/Sub.2/2000/OD.2).

5. Mr. ALFONSO MARTÍNEZ wondered whether the Sub-Commission, which was an analytical and deliberative body, would be able to study all the agenda items and documents before it with the care they deserved now that the length of its session had been reduced by one week.

6. Ms. WARZAZI said she shared that concern. However, she hoped that the Sub-Commission would be able to devote sufficient time to priority issues, including racial discrimination and the situation of migrant workers (item 3), to which the Sub-Commission should devote three and not two half-days as envisaged in the provisional timetable. The Sub-Commission could do that by devoting only one meeting on 18 August, rather than two, to item 13.

7. Mr. EIDE said he would have liked to see a working group on the methods of work of the Sub-Commission meet during the current session; he hoped that the matter would be dealt with in informal consultations.

8. Moreover, since the Sub-Commission would not be voting at its current session on resolutions dealing with the human rights situation in specific countries and since resolutions on thematic issues would probably be adopted by consensus, there was no need to set aside three meetings for voting, as the Bureau had done in its draft timetable. In that way, the Sub-Commission could spend more time on other issues, including racism.

9. The CHAIRPERSON said that the meeting on the morning of 16 August could indeed be devoted to a substantive issue rather than voting, and that less time could be spent on item 13 and more on item 3.

10. Mr. PINHEIRO said he would like to know when the Sub-Commission intended to follow up the Chairperson's statements made at the previous session, including those on Belarus, Mexico, Togo, Indonesia and refugees in Nepal.

11. The CHAIRPERSON said that the matter would be considered under agenda item 2.

12. Mr. JOINET noted that only two meetings were planned for item 2, as compared with four at the previous session. That was a reduction of 50 per cent, whereas the overall length of the session had been cut by only 25 per cent. In his view, therefore, a third meeting should be planned for that item.

13. Mr. EIDE, Mr. PINHEIRO and Ms. WARZAZI supported that proposal.

14. Mr. PARK asked when the very important Human Development Report would be considered and whether the question of the adverse consequences of the transfer of arms and illicit trafficking in arms on the enjoyment of human rights would receive all the attention it deserved, given its inclusion under the heading "Other new developments" at the end of item 12.

15. The CHAIRPERSON said that human development would be considered for the most part under items 4 and 5, but also whenever issues such as slavery, indigenous peoples and minorities were considered. The fact that the question of the adverse consequences of the transfer of arms came at the end of item 12 did not mean that the Sub-Commission would attach any less importance to it than to other issues.

16. Mr. KARTASHKIN agreed that the meeting on the morning of 16 August could be spent on something other than voting and proposed that the timetable prepared by the Bureau should be adopted as the only one likely to be acceptable to all. Otherwise, everyone would be pushing their own proposal and the discussion could easily become bogged down. With regard to item 2, he recalled that the Sub-Commission was no longer authorized either to adopt resolutions on countries or to study situations already before the Commission. Moreover, discussions on that item generally led to accusations, counter-accusations and ideological disagreements. It would be better if the Sub-Commission focused its efforts on issues on which it could take practical decisions, particularly on the basis of members' reports and studies.

17. Mr. RODRÍGUEZ CUADROS said that more time should be spent on the violation of human rights (item 2) and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (item 3).

18. Mr. JOINET said he did not agree with Mr. Kartashkin. While discussions on item 2 had often given rise to controversy, history showed that the Sub-Commission had always been right, whether on El Salvador, Guatemala, Haiti or, more recently, East Timor. The violations condemned by the Sub-Commission had not been invented; if anything, the truth about them had been worse than feared. In France, for example, the use of torture during the war in Algeria had often been denied, until General Massu had recently admitted that the French army had used torture systematically. History showed that human rights defenders were right most of the time.

19. In that connection, he recalled that the Commission, in its resolution 8 (XXIII) of 16 March 1967, had requested the Sub-Commission to prepare a report containing information on violations of human rights and fundamental freedoms for the use of the Commission. That task had not been called into question in document E/CN.4/2000/112; only the details of how to go about it had been changed. The Sub-Commission should therefore accept the fact that it

could no longer adopt country-specific resolutions. However, that should not prevent it from facing up to its obligations. The Commission document referred to above itself said that "there could be a loss in human rights terms if the Sub-Commission were unable to give any consideration to specific country situations".

20. Ms. HAMPSON agreed. She recalled that the Commission had requested the Sub-Commission to continue discussing the situation in countries that were not being considered by the Commission, as well as emergencies, even if its discussions did not lead to resolutions. For that reason, she supported the proposal to spend an additional half-day on item 2 and an extra half-day on item 3.

21. Mr. PREWARE said that, although the draft timetable proposed by the Bureau was excellent, members of the Sub-Commission wished to spend more time on certain items, and therefore proposed that those deserving a thorough discussion should be identified. He suggested that the morning of 3 August should be devoted to consideration of item 2, rather than item 3, which would make it possible to devote three meetings to item 2 and to postpone consideration of item 9 to 17 August. Moreover, if a vote was taken every day, on every item, more time could be devoted to the discussions.

22. The CHAIRPERSON noted that the sessional working group on the administration of justice (item 9) had to start work in the first week, and it was impossible to postpone it. As far as voting procedure was concerned, she pointed out that members of the Sub-Commission needed time to think before voting on draft resolutions.

23. Ms. WARZAZI called on the Chairperson to have the timetable adopted as amended without further ado. With regard to the meeting on 18 August, while she understood the problems it would pose for the Secretariat, she thought the report could be prepared on a daily basis, rather than at the end of the session.

24. Mr. FAN Guoxiang said that he did not object to the Chairperson's proposal. He could also go along with some of the amendments, particularly the one on spending half a day more on both item 2 and item 3.

25. As for country-specific resolutions, he said that he had always been opposed to their adoption by the Sub-Commission, and at the previous session had voted against that kind of resolution. However, he saw no reason why country situations should not be considered in accordance with the mandate established by the Commission. He recalled that the Sub-Commission was a forum made up of independent experts and that it should not indulge in political manoeuvring.

26. He supported Ms. Warzazi's proposal to adopt the draft timetable.

27. Mr. EIDE was in favour of adopting the draft timetable as amended. The Bureau should also set the dates for the additional meetings on items 2 and 3.

28. Moreover, he hoped that the Sub-Commission would hold an informal meeting to consider its future agenda once its report was completed.

29. Mr. JOINET said he was in favour of adopting the draft timetable. However, he would like to know whether the Sub-Commission would be able to hold one or two extended meetings.

30. The CHAIRPERSON informed the Sub-Commission that an extended meeting could be held on 10 August.

31. Mr. YOKOTA agreed with Ms. Warzazi and Mr. Eide. He was in favour of devoting an additional half-day to item 2 and another to item 3, and cancelling the meetings set aside for voting on the morning and afternoon of 16 August.

32. He noted that, under the draft timetable, items 10, 11 and 12 were to be considered on the Monday and Tuesday of the last week of the session and that a vote on those items would be held on the Wednesday. However, experience showed that some time was needed to reflect on the draft resolutions before the vote. That was especially true of agenda item 12, which, in view of the large number of issues to be dealt with, required a thorough discussion.

33. The CHAIRPERSON said that, as usual, draft resolutions on item 12 had to be submitted even before that item was discussed.

34. Mr. ALFONSO MARTÍNEZ said that he did not intend to formally oppose the consensus. However, in his view, the basic issue, which should be clearly reflected in the record, was that by approving the proposed timetable, the Sub-Commission would, as it were, be accepting a "mission impossible". In the new situation it would really be very difficult, if not impossible, to study the issues on the agenda in depth. If it was to tackle the 11 or 12 basic items that made up the agenda, the Sub-Commission would be forced to limit the time spent on discussions and reflection, which were vital parts of its function.

35. The CHAIRPERSON proposed that the Sub-Commission should adopt the timetable.

36. The timetable, as amended, was adopted.

37. Mr. KARTASHKIN welcomed the fact that the amended timetable had been adopted unanimously despite the objections of some members, and said he hoped that such unanimity would be maintained during the discussions.

38. Ms. WARZAZI proposed that consideration of any item that could not be taken up for one reason or another should be carried over to the following year.

METHODS OF WORK OF THE SUB-COMMISSION (agenda item 1 (c))
(E/CN.4/Sub.2/2000/112 and E/CN.4/Sub.2/1999/47)

39. The CHAIRPERSON said that the Bureau had taken into account decision 1999/114, adopted at the previous session. The Bureau would therefore hold its meetings on Tuesdays and

Fridays. With regard to the order of statements, members of the Sub-Commission would speak first, followed by representatives of intergovernmental and non-governmental organizations (NGOs) and, lastly, Government observers.

40. Because the session was shorter, the Bureau had had to recommend that speaking time should be allocated as follows: members of the Sub-Commission, 10 minutes; special rapporteurs, a maximum of 15 minutes, including the presentation of the report and conclusions; Government observers, 5 minutes per item, except on item 2, where the available time would be divided by the number of speakers on the list; right of reply by Government observers, 3 minutes for the first reply and 3 minutes for the second; observers from intergovernmental organizations and representatives of United Nations specialized agencies and other organizations, 5 minutes; representatives of NGOs, 5 minutes per item, except for item 2, where the available time would be divided by the number of speakers on the list, and 15 minutes for joint statements.

41. Meetings would normally end at 6 p.m., except on 10 August, when an extension would be possible.

42. Mr. ALFONSO MARTÍNEZ said that the situation was serious. By accepting the timetable, members of the Sub-Commission had actually been forced to restrict their freedom of speech. Whereas at the previous session members had been able to make one or more 15-minute statements per item, at the current session they could only make a single 10-minute statement, meaning that their speaking time had been reduced by 33 per cent.

43. NGO representatives, for their part, had had their speaking time cut by half as compared with the previous year. The same applied to Government observers and representatives of the specialized agencies. He therefore formally objected to the recommendations, as they undermined the Sub-Commission's very raison d'être, which was to be a forum for reflection and discussion. In that situation, it would be impossible for members of the Sub-Commission to discuss in any depth the important reports submitted to them. He therefore called on his colleagues to draw the obvious conclusions and not to lose sight of the practical consequences that such restrictions would have on the work of the Sub-Commission.

44. Ms. WARZAZI said that the reduction in speaking time really did pose serious problems. She also wondered how the meeting on 10 August could be extended when a working group was to begin its work at 5 p.m. on the same day.

45. The CHAIRPERSON said that the meeting of the working group on agenda item 9 could be held on 9 August.

46. Mr. JOINET agreed with Mr. Alfonso Martínez that the kind of censorship represented by the reduction in speaking time was regrettable. In his view, since the length of the session had been cut by a quarter, it would be more logical to reduce speaking time by only a quarter.

47. Mr. EIDE said that members would have to accept the fact that statements would be shorter at the current session, but lessons would have to be drawn for the next session. The Commission had requested the Sub-Commission to be a think tank, which meant that the latter

would have to show some flexibility. He therefore proposed that the 10-minute limit on speaking time should be taken as a guide rather than an inviolable rule. Moreover, he thought that better use could be made of speaking time by making statements that were more to the point and more precise.

48. Mr. KARTASHKIN wished to know whether speaking time was being limited to 10 minutes per meeting or per speech.

49. The CHAIRPERSON said that, in principle, speaking time was 10 minutes per agenda item. However, it appeared that members interpreted that principle in different ways.

50. Mr. PINHEIRO said that if participants' speaking time was reduced any further, the Sub-Commission's work in the following year would be a work of fiction. Moreover, he could not agree that the Sub-Commission was a think tank; it had a very specific mandate, and was not a centre for academic debates.

51. The CHAIRPERSON suggested that members of the Sub-Commission could be allowed some flexibility and could make several statements on each item, with each statement lasting no longer than 10 minutes.

52. Mr. JOINET cautioned the Chairperson that she would find herself in a difficult position if she allowed all the experts to speak for 10 minutes every time they wished to take the floor.

53. Mr. ALFONSO MARTÍNEZ said that there seemed to be consensus on the need to find a flexible formula on the amount of time that speakers would be allowed. A guideline of 10 minutes could be set for the experts, but it was important not to interfere with freedom of speech. It was therefore worrying that it was proposed to reduce the speaking time of observers for NGOs and Governments by 50 per cent, as they played a vital role in the Sub-Commission; a draconian reduction in their speaking time would not be good for its work.

54. The CHAIRPERSON recalled that a total of four hours had been set aside for observers for the consideration of item 2, on human rights violations . That time therefore had to be divided by the number of speakers wishing to take the floor.

55. Mr. PINHEIRO asked whether time had been set aside for following up the Chairperson's statements.

56. The CHAIRPERSON said that no time had yet been allocated for that purpose.

57. Mr. ALFONSO MARTÍNEZ said that the speaking time allowed for observers should only be a guide.

58. With regard to the point raised by Mr. Pinheiro, he pointed out that not all the Chairperson's statements necessarily required a follow-up, and just because there had been a Chairperson's statement one year did not mean that there would necessarily be one the following year. Moreover, care must be taken to ensure that such statements did not become a substitute for country-specific resolutions.

59. Mr. EIDE said that, as the time available was not unlimited, members of the Sub-Commission should enjoy greater flexibility than observers, who should observe strictly the limits on their speaking time.

60. Ms. WARZAZI suggested that more time should be allowed observers during the consideration of item 2, which was to be discussed at greater length. The Chairperson should check with the Secretariat to see whether that was possible.

61. Mr. ALFONSO MARTÍNEZ said it was unfair to reduce speaking time for observers by 50 per cent and by only 25 per cent for members of the Sub-Commission. Moreover, participants should know exactly how long they were allowed to speak. Their speaking time could be reduced by 25 per cent as compared with the previous year or set at 7 or 8 minutes.

62. Mr. RODRÍGUEZ CUADROS, noting that all the members of the Sub-Commission valued the statements made by observers, who made a very positive contribution to its work, believed it would be fair to allow all observers to take the floor. That implied limiting their speaking time and sharing it equally among them.

63. Mr. KARTASHKIN, supported by Mr. PREWARE, said that the time allocated to speakers could be decided at each meeting, depending on the number of speakers on the list.

64. Mr. JOINET stressed the need to set a precise speaking time for participants. He drew attention to his earlier proposal to reduce it by 25 per cent as compared with the previous year, on the understanding that it would be the Chairperson's prerogative to show some flexibility.

65. The CHAIRPERSON said she took it that the Bureau's recommendation was accepted. The speaking time for experts was set at 10 minutes in principle, although they could exceptionally be allowed some flexibility.

66. Mr. GUISSÉ asked whether experts presenting reports could not have a little more than 10 minutes.

67. The CHAIRPERSON said that the intention was to make an exception for members of the Sub-Commission speaking as rapporteurs.

68. Mr. JOINET said there were only two solutions open to the Sub-Commission: it could either adopt the Bureau's proposal of 10 minutes for experts, on condition that the Chairperson showed some flexibility, or it could reduce speaking time by 25 per cent as compared with the previous year.

69. Mr. YIMER, supported by Mr. GUISSÉ, stressed the need to abide strictly by the speaking time allocated to all participants.

70. Mr. BENGOA said it would be well if experts could be allowed to speak for 15 minutes on a specific agenda item if they asked to do so in advance.

71. Mr. EIDE thought that strict rules should be observed and that speaking time should be restricted to 10 minutes, on the understanding that, during the debate, a participant could revert briefly to an item if necessary.

72. Ms. WARZAZI suggested that an expert who did not speak on an agenda item could, if need be, make use of unused speaking time during the consideration of another item.

73. Mr. SIK YUEN said that members of the Sub-Commission were quite capable of keeping to the time allocated to them.

74. The CHAIRPERSON, replying to Ms. Warzazi, pointed out that it would be very difficult for the Secretariat to keep track of the speaking time saved in that way. It was now up to the Sub-Commission to take a decision on Mr. Joinet's proposal to reduce the speaking time allocated to all participants by 25 per cent, or to accept the Bureau's recommendation to allow experts to speak for 10 minutes - or up to 15 when they were speaking as rapporteurs - with dispensations being granted on an exceptional basis.

75. Mr. ALFONSO-MARTÍNEZ was prepared to accept either proposal, as they both offered the advantage, as compared with the Bureau's initial recommendation, of promoting communication between all participants.

76. Mr. EIDE suggested combining the proposals made by Mr. Joinet and Mr. Bengoa, in other words, reducing speaking time proportionally while allowing experts who had spoken little to exceed the 10-minute limit on an exceptional basis if they wished to elaborate on a specific subject. That solution would take Ms. Warzazi's suggestion into account.

77. Mr. RODRÍGUEZ CUADROS, noting that a consensus appeared to be emerging on Mr. Eide's proposal, suggested that members should adopt it.

78. Ms. WARZAZI said she had reservations about that proposal, which did not take into account her wish to be able to speak at greater length on subjects she felt strongly about.

79. The CHAIRPERSON said she took it that the Sub-Commission wished to adopt the proposal on reducing speaking time as formulated by Mr. Eide, with the reservations expressed by Ms. Warzazi.

80. It was so decided.

81. The CHAIRPERSON read out the procedure for including names in the list of speakers and for submitting draft resolutions, which had to be handed in three working days before the date on which they were to be considered or put to the vote.

82. Mr. JOINET pointed out that members of the Sub-Commission were not obliged to put their names on the list of speakers and could take the floor at any time until the debate on the item under consideration was closed, as long as they did not exceed the time allowed.

83. The CHAIRPERSON said that, as she heard no objections, she took it that the Sub-Commission accepted the recommendations concerning the list of speakers and submission of draft resolutions.

84. It was so decided.

85. The CHAIRPERSON asked members to consider a proposal in connection with the implementation of Commission on Human Rights decision 2000/109 on enhancing the effectiveness of its mechanisms. The proposal, which had been accepted by the Bureau, was that a summary of the Sub-Commission's discussions on agenda item 2 should be annexed to its report.

86. Mr. ALFONSO MARTÍNEZ said that the proposal should be circulated in writing so that members could take an informed decision on the matter, especially as that decision would set a precedent.

87. Mr. JOINET agreed, and added that the Bureau's idea was excellent and in conformity with Commission on Human Rights resolution 8 (XXIII) of 16 March 1967, in which the Sub-Commission was requested to prepare a report on human rights violations. He also supported the idea of asking the Rapporteur to summarize and analyse the discussions on that item and, in that connection, pointed out that at the previous session the circulation by the Secretariat and Rapporteur of parts of the report well before it was adopted had saved a great deal of time. He thought that the summary should not give the names of speakers, that it should contain a brief commentary on situations in countries giving rise to concern (the countries being listed in alphabetical order), and that the document should not be longer than five or six pages.

88. The CHAIRPERSON suggested that the meeting should be suspended to allow consultations on the composition of the sessional working groups.

89. The meeting was suspended at 12.40 p.m. and resumed at 12.55 p.m.

90. The CHAIRPERSON announced the proposed composition of the sessional working group on the administration of justice and the sessional working group on the working methods and activities of transnational corporations. Care had been taken to ensure that each regional group was represented on them. It was proposed that the first should consist of Ms. Zerrougui, Mr. Yokota, Mr. Ogurtsov, Mr. Fix-Zamudio and Ms. Hampson, and the second of Mr. Guissé, Mr. Park, Mr. Kartashkin, Mr. Rodríguez Cuadros and Mr. Weissbrodt.

91. The CHAIRPERSON said that, as she heard no objections, she took it that the Sub-Commission approved of the composition of the two sessional working groups.

92. It was so decided.

93. The CHAIRPERSON proposed that consideration of the issues under agenda item 1 (c) not yet dealt with by the Sub-Commission should be carried over to the next meeting.

94. Mr. EIDE said that he intended to circulate a number of proposals on the agenda for the next session. That was an urgent matter, given the shorter length of the session, and he hoped that, at the very least, an informal meeting could be held to enable the Sub-Commission to discuss the matter.

The meeting rose at 1.05 p.m.